

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE REENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) CHAPTER 34 RELATING TO “MERIT BOARD FOR EMPLOYEES OF CERTAIN DEPARTMENTS AND COMMISSIONS,” PURSUANT TO KRS 67C.115 (2) AND (3). (As Amended).

Sponsored By: Councilmen Rick Blackwell & Kelly Downard

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: KRS 67C.115 (3) states that all ordinances of the city and county creating agencies and boards and interlocal agreements shall survive and be deemed reenacted by the council. All members may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law; and

SECTION II: Pursuant to KRS 67C.115 (2), various sections of LMCO Chapter 34 entitled, “Merit Board for Employees of Certain Departments and Commissions,” are hereby reenacted as follows:

§ 34.001 MERIT BOARD CREATED; PURPOSE.

There is created a merit board for certain employees of Louisville Metro Public Health and Wellness Department, the Louisville/Jefferson County Planning Commission, and the Louisville/Jefferson County Air Pollution Control District. Provided, however, that any employee covered under a collective bargaining agreement pursuant to LMCO Sections 35.050 through 35.080 shall not be covered by this Chapter.

§ 34.002 SCOPE.

(A) All employees of Louisville Metro Public Health and Wellness Department, Louisville/Jefferson County Air Pollution Control District and Louisville/Jefferson County

Planning Commission employed on or after July 1, 1986, except the directors, executive secretaries to the directors, secretary-treasurer, Air Pollution Control Officer, assistant directors and division managers, shall be covered by the rules and regulations of this Merit Board. Those persons employed as assistant directors or division managers as of July 1, 1986 shall be covered by the rules and regulations of this Merit Board but any person hired as, or promoted to, the position of assistant director or division manager after July 1, 1986 shall not be covered by the rules and regulations of this Merit Board.

(B) The jurisdiction of the Board is limited to those matters contained in these rules and regulations. The Board has no jurisdiction in any other personnel matters and recognizes that the ~~Louisville~~ Metro Personnel Policy Manual shall govern those issues.

(C) The rules and regulations are not intended to create a contract for permanent or continuous employment. The Board reserves the right to change, modify, amend or repeal any rule within the guidelines established by these rules and regulations.

§ 34.003 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. Request made by an employee to the Board to review a layoff, dismissal, suspension or demotion.

APPLICANT. A person who has met all qualifications and is completing all required examinations .

APPOINTING AUTHORITY. The Department Director.

APPOINTMENT. The selection of an eligible person to fill a vacancy.

APPOINTMENT, ACTING. A temporary appointment to a higher classification for a period not to exceed 30 days.

APPOINTMENT, EMERGENCY. A temporary appointment made without regard to competition which shall not exceed 60 days and shall not be extended.

APPOINTMENT, SEASONAL. A temporary appointment made to meet work requirements occurring only during certain times of the year.

APPOINTMENT, TEMPORARY. An appointment for a specific and limited period of time to provide the Metro Government with work or a service of a temporary or transitory nature.

BOARD. The Louisville/Jefferson County Health, Air Pollution, and Planning Merit Board.

CANDIDATE. A person seeking admission to the examination process.

CERTIFICATION. The submission of a list of eligibles to the department director.

CLASSIFICATION. One or more positions having the same job title, job code, minimum requirements, and in the same salary grade.

CLASSIFIED SERVICE. All employees of Louisville Metro Public Health and Wellness Department, Louisville/Jefferson County Air Pollution Control District and Louisville/Jefferson County Planning Commission employed on or after July 1, 1986, except the directors, executive

secretaries to the directors secretary-treasurer, Air Pollution Control Officer, assistant directors and division managers, shall be covered by the rules and regulations of this Merit Board. Those persons employed as assistant directors or division managers as of July 1, 1986 shall be covered by the rules and regulations of this Merit Board but any person hired as, or promoted to, the position of assistant director or division manager after July 1, 1986 shall not be covered by the rules and regulations of this Merit Board.

COVERED EMPLOYEE. An employee of either Louisville Metro Public Health and Wellness Department, Louisville/Jefferson County Air Pollution Control District or Louisville/Jefferson County Planning Commission.

DAY. In all instances where day is referred to it shall be understood to mean the respective days of the week. In computing any period of time prescribed by these rules, if the day on which, or by which an act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which Human Resources is closed, the act may be done on the next day which is not one of the days just mentioned.

DEMOTION. The movement of an employee from one classification to another classification assigned to a lower salary grade.

DEPARTMENT. Either Louisville Metro Public Health and Wellness Department, the Louisville/Jefferson County Air Pollution Control District or the Louisville/Jefferson County Planning Commission.

DISCIPLINE. Any effort to instruct or punish an employee concerning inappropriate conduct and behavior requiring redirection. Types of discipline may include counseling, warnings, reprimands, dismissals, suspensions, and demotions.

DISMISSAL. An involuntary separation.

ELIGIBILITY LIST, COMPETITIVE. A list of names of eligibles to be considered for appointment.

ELIGIBILITY LIST, PREFERRED EMPLOYMENT. A list of names of former regular covered employees separated from employment as a result of layoff and eligible to be considered for reemployment.

ELIGIBILITY LIST, PROMOTIONAL. A list of names of eligibles in order of final earned rating compiled for a promotion classification based on promotional competitive examination.

ELIGIBILITY LIST, REEMPLOYMENT. A list of names of former regular covered employees who have resigned in good standing and are eligible to be reemployed within one year of their separation in positions assigned to the same classification as was last held prior to resignation.

ELIGIBLE. A person who has successfully completed all required numerically rated examinations and may be considered for further selection procedures or appointment.

EMPLOYEE. A person employed by the Metro Government in either Louisville Metro Public Health and Wellness Department Louisville/Jefferson County Air Pollution Control District or Louisville/Jefferson County Planning Commission.

EMPLOYEE, PROBATIONARY. An employee in the first six months of employment in a regular position.

EMPLOYEE, REGULAR. An employee who has completed an original probation period.

EMPLOYEE, SEASONAL. An employee whose services are required only during certain times of the year.

EMPLOYEE, TEMPORARY. An employee who is appointed for a specific and limited period of time not to exceed three months.

EQUIVALENT POSITION. A position of the same classification or the same minimum/maximum pay level.

EXHAUSTED. The state of an eligibility list when too few names remain on the list to provide the department director with an adequate number for selection.

FINAL EARNED RATING. A numerical score achieved by a candidate on the combination of all numerically rated components of the total examination process.

JOB DESCRIPTION. A written statement of the duties, responsibilities and qualifications requirements that are assigned to a classification.

LAYOFF. A separation due to a decrease in funds, a decrease in work load or reorganization.

LEAVE OF ABSENCE. An approved absence from work.

PASSING POINT. A numerical point value set for an examination or a segment of an examination such that all scores equal to it or above it are considered to be successful in that portion of the examination and all scores below it are considered to be unsuccessful.

POSITION. A collection of the duties and responsibilities which may be performed by one person.

PROBATION PERIOD. The first six months of employment during which an employee is required to demonstrate satisfactory performance of the duties of the position.

PROMOTION. The movement of an employee from one position to a position of another classification having a higher salary grade.

PUBLIC NOTICE. Delivering, personally or by mail, e-mail, written notice to each newspaper, news service, radio and television station which has on file with the Board a request to be notified; and to each Metro Council member, the Metro Council Clerk, the Mayor, each department director, each board member and by posting the notice in each department.

QUALIFICATIONS. The minimum requirements necessary to perform the work of positions assigned to a classification.

REASSIGNMENT. The movement of an employee, within the same department, from one position to another position of the same or similar salary grade.

REEMPLOYMENT. The hiring within one year of separation of a former regular employee.

REINSTATEMENT (BOARD). The reemployment of a former employee after review by the Board of an appeal of dismissal by the employee and findings and order of the Board directing reinstatement.

RESIGNATION. A voluntary separation.

SENIORITY. The status or priority given an employee based on length of service of the employee with the department or Metro Government, whichever is longer.

SEPARATION. The end of employment.

SUSPENSION. An involuntary leave of absence.

TRANSFER. The movement of an employee from a classification in one department to a classification in another department having the same or similar salary grade.

VALIDATION. The establishment of a relationship between a selection procedure and content and/or performance in the job.

VALUES. The relative weight assigned to each numerically rated component of the examination process.

§ 34.004 POLICY OF NONDISCRIMINATION.

(A) No person shall, in any way, be favored or discriminated against with respect to any personnel action under the authority of the Board, on the basis of race, color, sex, age, religious beliefs, national origin, physical or mental disability, sexual orientation or gender identity, or political opinion.

(B) If an employee or applicant has reason to believe that he or she has been subjected to discrimination on the basis of race, color, sex, age, religion, national origin, sexual orientation or gender identity, or disability, he or she should bring the matter to the attention of the Compliance Specialist in -Human Resources, without delay.

(C) If an employee or applicant has reason to believe that he or she has been subjected to discrimination on the basis of political opinion, he or she may appeal the matter to the Board. Such an appeal shall be in writing and shall be filed within ten days of the alleged discriminatory action.

§ 34.005 POLITICAL ACTIVITIES.

(A) *Prohibited activities.* No person governed by these rules and regulations shall:

(1) Directly or indirectly work, ~~give~~, solicit, or receive ~~or remit~~ any assessment, subscription, or contribution to or for any political party or any candidate for public office.

~~=====~~ (2) ~~Be a member of any campaign committee or governing committee of any political organization or an officer in either.~~

~~=====~~ (3) ~~Be an election officer or work at the polls on election day.~~

~~=====~~ (4) ~~Participate in the purgation or registration of voters.~~

~~=====~~ (5) ~~Participate in the nominating process of any candidate or slate of candidates for public office as a delegate to any convention or nominating body, or as a direct participant therein.~~

~~———— (6) Display badges, buttons, signs, pictures, or political symbols for or against a candidate, slate of candidates, nominee or slate of nominees for elected office while the classified employee is on duty or in uniform; nor shall such be displayed on a classified employee's private vehicle while such is used by the employee for work assignments.~~

~~———— (7) Become a candidate or nominee for any paid partisan or nonpartisan political office.~~

(B) *Permitted Activities.* Nothing contained in this rule shall be interpreted to prohibit a person governed by these rules from:

(1) Casting his or her vote in any election.

(2) Wearing badges, buttons, signs, stickers, or political symbols for or against a candidate, slate of candidates, nominee or slate of nominees, while off-duty and out of uniform, or placing such items on a privately owned vehicle, if such vehicle is not used by the employee for work assignments.

(3) Attending, while off-duty and out of uniform, a meeting or rally of any political candidate, organization, slate of candidates, nominee, or slate of nominees, for public office so long as attendance at such meeting or rally does not require any contribution, solicitation, receipt, or remittance of monetary contribution, either directly or indirectly through the purchase of any item if any portion of the proceeds thereof provides any benefit to said committee, organization, candidate, slate of candidates, nominee or slate of nominees.

- (4) An employee may seek elective office, however, there must be a clear separation between the employee's campaign and his or her duties as an employee of Louisville Metro Government. (This policy does not supersede any restrictions set forth in relevant Metro Civil Service, Metro Merit Board, or Metro Police Merit Board Rules)

Prior to an employee/candidate's announcement, he/she must advise his/her department director, and his/her individual circumstances will be considered. When the separation between campaign and job duties is not clear and the circumstances warrant it, Louisville Metro Government may alter the employee's duties for the duration of the campaign.

An employee shall not campaign on Louisville Metro Government time or at the employee's work site. An employee shall not be permitted to bring campaign materials to the work site nor shall an employee use Louisville Metro Government supplies or equipment.

Any absence from work that is campaign related must be approved in advance by the employee's Department Director, and Deputy Mayor.

An employee may use accrued leave (with the exception of sick leave) for campaign related absences.

§ 34.006 EMPLOYEES SERVING ON DISCIPLINARY APPEAL BOARDS.

In addition to the Board members appointed by the Mayor, two employees of each covered department shall be elected by their coworkers to serve on the Board for the purpose of hearing

and voting on disciplinary appeals from their respective departments. These employees are to serve two-year terms from August 1 through July 30 and are to be elected in July of even numbered years. A vacancy in one of these positions shall be filled by election by the employees of the affected department for the remainder of the unexpired term.

§ 34.007 AMENDMENTS.

(A) The Board may amend these rules as it deems necessary to foster generally accepted merit principles or concepts of sound personnel management.

(B) Amendments shall be proposed by a first reading. At a subsequent meeting, the Board shall hear a second reading and vote on adoption of the proposed amendment. Announcement of the second reading shall be made in writing to the Mayor, Metro Council members, Metro Council Clerk, the department directors of Planning and Environmental Management, Public Protection, Health, and the division directors of the Air Pollution Control District, and the Planning Commission. The written announcement shall be posted by the directors at the Department of Health, Air Pollution Control District, Planning Commission, and shall be posted at Human Resources.

(C) At least three days shall elapse between proposal/first reading and second reading/adoption.

(D) Approved amendments of these rules shall be announced in the same manner as provided for in subsection (B).

(E) Amendments of any material identified as an appendix of these rules may be made by simple resolution of the Board, without prior reading or notice. Amendments of appendix material shall be posted in the same manner as amendments of the rules.

(F) Changes in grammar, spelling, punctuation, numbering and other such changes which do not alter the substantive meaning of the rules may be made by the Director of -Human Resources, or designee. Notice of such changes shall be reported to the Board at its next regular meeting and announcement of the changes shall be distributed as provided in subsection (B).

MERIT BOARD OPERATIONS

§ 34.020 MEMBERSHIP; QUALIFICATIONS; OATH.

(A) The Merit Board shall be composed of six members who are appointed by the Mayor and subject to Metro Council approval. The Mayor or designee serves as an ex-officio member of the Board and is entitled to vote only in instances where a tie vote has occurred.

(B) Each Board member must be at least twenty-eight (28) years of age, a resident of Jefferson County and not related by blood or marriage to the Mayor or any other member of the Metro Council.

(C) Board members may be removed by resolution of the Metro Government for neglect, incapacity, misfeasance or violation of this ordinance.

(D) During their term of service on the Board, members may not hold any other public office, appointive or elective, nor may members campaign for elective office.

(E) Not more than three members of the Board may be adherents of the same political party.

(F) Board members, before beginning their terms, are required to subscribe, take and file an oath of office, as follows:

“I do solemnly swear that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true as a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of Louisville/Jefferson County Merit Board Member according to law; and I do further solemnly swear that since the adoption of the present Constitution, I, being a citizen of this state, have not fought a duel with deadly weapons within this state, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge nor aided or assisted any person this offending, so help me God.”

§ 34.021 TERM OF APPOINTMENT.

The initial Board shall be appointed for staggered terms; one appointment shall be from July 1, 1986 to June 30, 1987; two appointments shall be from July 1, 1986 to June 30, 1988; one appointment shall be from July 1, 1986 to June 30, 1989 and two appointments shall be from July 1, 1986 to June 30, 1990. Thereafter appointments shall be for four years, except that appointment to fill terms shall be made only for the unexpired period of the respective term.

§ 34.022 OFFICERS; ELECTION.

(A) The officers of the Board shall be a Chairperson and a Vice-Chairperson.

(B) The Board shall elect its officers annually, at the regular meeting in July and at any other time there is a vacancy in one of the offices. The officers shall serve terms of one year until their successors are elected and qualified, or in the event of an election to fill an officer's unexpired term, for the duration of that term. The officers may be re-elected to these offices.

(C) The duties of the Chairperson are as follows:

- (1) Preside at meetings and hearings of the Board;
- (2) Review and sign the minutes of meetings;
- (3) Issue subpoenas and administer oaths at hearings;
- (4) Monitor and evaluate the work of the Director of Human Resources in relation to covered employees;
- (5) Report on such to the Board; and
- (6) Represent the Board, when necessary.

(D) The duty of the Vice-Chairperson is to serve as Chairperson in the absence or incapacity of the Chairperson.

§ 34.023 MEETINGS.

- (A) The Board shall meet as needed.
- (B) The regular meeting of the Board shall be held at a place and time designated by the Board.

(C) Special meetings of the Board may be called by either the Chairperson or by a majority of the members of the Board. Public notice of the special meeting shall be given at least twenty-four hours prior to the time of the special meeting. The notice of a special meeting shall state the date, time and place of the meeting, and what business will be considered. No other business except that stated in the notice shall be considered.

§ 34.024 QUORUMS.

(A) *Nondiscipline related meetings.* At least four board members must be present at meetings of the Board to constitute a quorum.

(B) *Quorum required.* Business may not be conducted at a meeting unless there is a quorum of the members of the Board present.

(C) *Disciplinary appeals.* In cases of discipline, five members of the Board must be present to constitute a quorum, one of which must be an employee, as provided for in § [34.006](#). In the event a disciplinary appeal results in a tie vote, the disciplinary action shall stand as issued.

§ 34.025 VOTING.

A majority of Board members present and voting shall determine any question, provided that a quorum is present.

§ 34.026 MINUTES.

The Director of Human Resources, or designee, shall be responsible for preparing the minutes of all meetings of the Board. The minutes shall be submitted for approval at the next regular

meeting of the Board. The minutes shall be signed by the Director of Human Resources, or designee, and the Chairperson, or in the absence of the Chairperson, by the Vice-Chairperson. The minutes shall be open to public inspection immediately following the meeting of the Board at which they are approved.

§ 34.027 EXECUTIVE SESSIONS.

The Board may retire into executive session at any time, subject to the provisions of the Kentucky Revised Statutes, upon motion duly made and approved by a majority of members present, stating the purpose for the special meeting. Any action taken in regard to the matters discussed in the executive session must be affirmed in an open public session of the Board.

§ 34.028 PARLIAMENTARY PROCEDURE.

In meetings, the Board shall be guided in its conduct by the Kentucky Revised Statutes, these rules, *Robert's Rules of Order* and rulings of the presiding officer.

§ 34.029 SECRETARY FOR BOARD; RESPONSIBILITIES.

The Director of Human Resources, or designee shall act as secretary for the Board and shall be responsible for:

- (A) Attending meetings and hearings of the Board, serving as the secretary of meetings;
- (B) Enforcing and administering these rules;
- (C) Preparing the Board's budget and submitting such;
- (D) Hiring and directing any necessary staff; and

(E) Performing all other tasks normally arising from the administration of the rules and all other tasks assigned by the Board.

§ 34.030 REPORTS TO BOARD BY DIRECTOR OF HUMAN RESOURCES.

Each department director shall notify the Director of Human Resources, or designee, in writing of all appointments, reclassification, written disciplinary actions, transfers, reassignments, separations, vacancies and the creation and/or abolition of positions. At each regular meeting the Director Human Resources, or designee, shall report in writing to the Board on such matters occurring in the Classified Service since the Board's last regular meeting.

§ 34.031 RECORDS AND FILES.

(A) *Public records.* Unless otherwise provided for, all records and minutes of Board activities shall be considered public records.

(B) *Personnel files.*

(1) The Director of Human Resources, or designee, shall be the official records custodian and shall be responsible for maintaining and securing all personnel files.

(2) The provisions of the *Personnel Policy Manual* relating to public records shall apply to the personnel files and employment records of covered employees.

~~§ 34.032 OPEN RECORDS REQUEST.~~

~~—(A)— All open records requests made upon the Merit Board shall be directed to the Director of Personnel at the Board's principle office, Room 301, 517 Court Place, Louisville, Kentucky 40202-3305.~~

~~—(B)— All open records requests may be made in person during the hours of 8:30 a.m. to 4:00 p.m., or may be made by written request but the written request shall include a stamped, self-addressed envelope of the requestor.~~

~~—(C)— In the event the requestor desires to have photocopies made of Board public records or documents, the fee for such copying shall be \$.25 per page. All checks for photocopying shall be made payable to the Louisville/Jefferson County Treasurer.~~

~~—(D)— Nothing contained in this rule shall be constructed as an abrogation of the right of the Board to deny, in whole or in part, inspection of any record determined to be nondisclosable under the Open Records Act, KRS 61.870 et seq. In the event of any such denial, the Board shall comply with the requirements of KRS 61.880.~~

POSITION CLASSIFICATION

§ 34.045 CLASSIFICATION AND COMPENSATION PLAN.

(A) The Director of Human Resources, or designee, shall conduct or direct all job analysis studies necessary to include covered employees in Metro Government's Classification and Compensation Plan.

(B) The provisions of the *Personnel Policy Manual* relating to position classification shall apply to all covered employees. This includes the provisions on reclassification.

(C) The Director of Human Resources, or designee, shall notify the Board of any changes in the Classification and Compensation Plan at its regular meetings.

§ 34.046 JOB DESCRIPTIONS.

(A) The Director of Human Resources, or designee, shall be responsible for the preparation of job descriptions for each covered position.

(B) The provisions of the *Personnel Policy Manual* relating to job descriptions shall apply to all covered positions.

(C) The Director of Human Resources, or designee, shall notify the Board of any changes in job descriptions at its regular meeting.

§ 34.047 USE OF CLASSIFICATION TITLES.

The classification title shall be the official title of every position assigned to a classification. All official records and documents shall reflect the classification title assigned under the "Classification and Compensation Plan." The use of official or working titles is permitted.

APPLICATION; SELECTION FOR EXAMINATION

§ 34.060 RECRUITMENT OF APPLICANTS.

The Director of Human Resources, or designee, shall determine appropriate procedures for recruitment of applicants, based on the number of qualified applicants needed and the principles of equal employment opportunity and affirmative action.

§ 34.061 ANNOUNCEMENTS OF EXAMINATIONS.

(A) Announcements of examinations shall be circulated according to procedures determined by the Director of Human Resources, or designee.

(B) Announcements shall include the title and salary level of the classification; the time, place and manner of making application; the final filing deadline; qualifications required, if any; the date, time, place and type of examination to be administered; and include a description of the work to be performed.

(C) Announcement of a promotional examination shall be made at least ten days prior to the administration of the examination.

(D) In addition to subsection (A), notice of open competitive examinations may be advertised publicly in newspapers and/or by radio not less than ten days prior to the filing deadline when the Director of Human Resources, or designee, determines that such advertising is necessary to produce an adequate number of qualified applicants or to support the affirmative action program of Metro Government.

§ 34.062 APPLICATION AND DISQUALIFICATION OF APPLICANTS.

The provisions of the Louisville Metro Personnel Policy Manual relating to applications and the disqualification of applicants shall apply to all covered positions.

EXAMINATIONS

§ 34.075 CHARACTER OF EXAMINATIONS.

Examinations shall be job related in character, practical in nature and relevant to those factors which test thoroughly the capabilities and qualifications of the applicant to discharge both

proficiently and efficiently the duties of the classification. The design of examinations shall be guided by the “Uniform Guidelines on Selection Procedures.”

§ 34.076 SCOPE AND TYPE OF EXAMINATIONS.

Examinations may consist of written or oral tests, physical fitness tests, medical examinations, demonstrations of skills, and/or ratings of previous experience and training. The Director of Human Resources, or designee, shall be responsible for determining the types of examination to be administered and is empowered to employ the services of a professional in the testing field who may otherwise be designated Examination Supervisor.

§ 34.077 ADMISSION TO EXAMINATIONS.

Only persons who have met all qualifications and whose applications are submitted and accepted prior to the final deadline shall be admitted to participate in the examination.

§ 34.078 ADMINISTRATION OF EXAMINATION; CONFIDENTIALITY.

(A) The Director of Human Resources, or designee, shall be responsible for overseeing the administration, integrity and security of all examinations, and shall be empowered to employ the services of a professional in the testing field who may formulate, give and grade the examinations and who may otherwise be designated Examination Supervisor.

(B) The Director of Human Resources, or designee, shall be responsible for reporting the results of all examinations to the Board. Such reporting shall be at the next regular meeting of the Board and may be after the creation and certification of an eligibility list.

(C) No applicant shall be allowed to take an examination other than at the time and place designated for such in advance unless there are conditions which, in the opinion of the Director Human Resources, or designee,, justify otherwise.

(D) Except as provided in § [34.079](#)(C), all examination materials shall be regarded as privileged and confidential and not available for public inspection. Any covered employee of the Board or Board member who engages in an activity which destroys the integrity, confidentiality, or security of the examination process shall be subject to immediate dismissal or removal, and, if warranted, prosecution.

§ 34.079 PROMOTIONAL EXAMINATIONS.

(A) *Waiver.* Upon approval by the Director of Human Resources, or designee,, promotional examinations may be waived by the department director in the event there are less than five qualified applicants. Such a waiver shall not be granted until after the application period for the position has closed.

(B) *Notice.* Notice of promotional examination shall be posted at least ten days before the promotional examination is administered.

(C) *Results.* The Director of Human Resources, or designee, or Examination Supervisor shall be responsible for the compilation of the grades of all candidates, based upon established percentages. Upon written request, candidates may examine their own scoring cards or sheets and exams ~~at~~ at Human Resources during hours established for that purpose by the Director of Human Resources, or designee,,

§ 34.080 PHYSICAL AND MEDICAL EXAMINATIONS.

(A) Human Resources shall employ one or more medical examiners to conduct physical and medical examinations for classifications requiring medical and physical standards.

(B) Performance on the physical and medical examinations shall be reported on a pass/fail basis.

§ 34.081 ERRORS IN GRADING.

Errors in grading an examination shall be corrected when they are discovered, as well as any error made in an eligibility list as a result; however, any such error shall not invalidate any appointment made prior to the discovery of the error. The Board may take such action as necessary to correct errors in grading.

§ 34.082 POSTPONEMENT OR CANCELLATION OF EXAMINATION.

(A) The Director Human Resources, or designee,, when necessary, may postpone or cancel an examination.

(B) All applicants scheduled to take an examination that is canceled or postponed shall be given notice of such cancellation or postponement.

§ 34.083 PASSING POINT SCORES.

The passing point score for any examination shall be established by the Director of Human Resources, or designee, or Examination Supervisor based upon sound testing procedures.

§ 34.084 NOTIFICATION OF TEST RESULTS.

All applicants who complete an examination shall be notified in writing of their final placement on the appropriate eligibility list.

§ 34.085 WAITING PERIOD UPON FAILING EXAMINATIONS.

(A) Any applicant who fails an examination, other than a clerical performance examination (i.e., typing, dictation, and/or transcription) shall be ineligible to apply for an examination for the same classification for a period of six months from the date of the final filing deadline of the failed examination.

(B) Any candidate who fails a clerical performance examination shall be ineligible for admission to an examination for the same classification with equal or higher clerical performance requirements, for a period of three months from the date of administration of the failed examination.

ELIGIBILITY LISTS

§ 34.095 PREPARATION AND MAINTENANCE.

(A) The Director of Human Resources, or designee, shall be responsible for the preparation of all eligibility lists following the completion of all required numerically rated examinations for a classification.

(B) The eligibility list shall show the name of each eligible. The eligibility list shall also provide for notation of each certification, date of appointments, and such other information as may be determined necessary by the Director of Human Resources, or designee.

(C) The eligibility lists shall be maintained in Human Resources and may be reviewed by any covered employee during normal working hours of Human Resources.

(D) In the event a candidate's name is placed on an eligibility list and the candidate changes address of residence, the candidate shall notify the Director Human Resources, or designee at once, giving the new address.

§ 34.096 COMPETITIVE ELIGIBILITY LISTS; REPLENISHING LISTS.

(A) *Contents.* Open competitive eligibility lists contain the names of persons who are qualified for further selection procedures or appointment as a result of open competitive, numerically-rated examinations for positions assigned to the classification covered by the list. All lists created before July 1, 1987 shall be effective for two years, unless otherwise directed by the Board. All of the lists of this type created on or after July 1, 1987 shall be effective for six months, unless otherwise directed by the Board.

(B) *Rankings.* The names of all persons who have obtained a score which is equal to or greater than the passing point score in the examination shall be placed on the eligibility list for the classification for which they were examined.

⊕ (C) *Replenishing lists.* When the Director Human Resources, or designee, deems that circumstances warrant, an examination shall be given for the purpose of replenishing the list:

(1) Eligibles whose names are on the existing list will not be given notification of the new examination. However, eligibles may reapply after the announcement of the examination has been posted.

(2) If the eligible does not take the new examination, the eligible's name shall be integrated into the new list and shall remain on the list only as long as the eligible's name would have remained on the original list.

(3) If the eligible takes the new examination, the eligible's name shall be place on the eligibility list; that name shall remain on the list for as long as the new list is to be effective. If the eligible fails to obtain a passing score, the eligible's name shall be removed from the list at the time the list is established.

§ 34.097 PROMOTIONAL ELIGIBILITY LISTS.

(A) Promotional eligibility lists contain the names of covered employees who have completed all numerically-rated promotional examinations, and who are eligible for promotions to positions assigned to the classification covered by the list.

(B) The names of all persons who have obtained a score which is equal to or exceeds the passing point score in an examination shall be placed on the eligibility list for the classification for which they were examined.

⊖ (C) All promotional eligibility lists created before July 1, 1987 shall be effective until exhausted for a period of two years, unless otherwise directed by the Board. All promotional lists created on or after July 1, 1987 shall be effective until exhausted for a period of six months, unless otherwise directed by the Board.

§ 34.098 REEMPLOYMENT ELIGIBILITY LISTS.

(A) Reemployment eligibility lists contain the names of former regular covered employees who resigned in good standing, requested to be placed on the reemployment eligibility list, and are approved by the department director and Director of Human Resources, or designee, as eligible to be reemployed without examination, in positions assigned to the same classification as employee last held prior to separation.

(B) The names of former regular employees shall be placed on this list in the order their request for placement on the list was received.

(C) Reemployment eligibility lists shall have a continuous life with the name of each eligible remaining on the list for a period of one year from the date of separation.

(D) In order to be placed on a reemployment eligibility list, a former employee must apply for placement on the list within one year of separation from the service. Requests for inclusion on the list must be submitted in writing to the department director and approved by the department director and the Director Human Resources, or designee,.

(E) For the purpose of certification under § [34.111](#), reemployment eligibility lists shall be regarded as competitive.

§ 34.099 PREFERRED REEMPLOYMENT ELIGIBILITY LISTS.

(A) Preferred reemployment eligibility lists contain the names of former covered employees who have been laid off and who are eligible for reemployment without competitive examination, for positions of the same classification in which the employee last held prior to layoff.

(B) A separate preferred reemployment eligibility list shall be created for each classification in which covered employees are laid off.

(C) The names of former employees on a preferred reemployment eligibility list shall be placed on the list in the order of layoff. If more than one employee has the same layoff date, the names of these persons shall be placed on the list under the same number ranking in alphabetical order.

(D) A preferred reemployment eligibility list shall have a continuous life and the name of each former employee shall remain on the appropriate list for up to one year from the date the layoff became effective or, if the employee was on the preferred reemployment eligibility list on August 1, 1986, until August 1, 1987. An eligible's name will be removed from the list when a department makes an offer of full-time employment to that eligible, regardless of whether that offer is accepted or rejected.

§ 34.100 SEASONAL ELIGIBILITY LISTS.

(A) A seasonal eligibility list contains the names of seasonal employees who have been previously employed in a particular classification who are available for seasonal appointments.

(B) A separate seasonal eligibility list shall be maintained for each classification in which there are former seasonal employees eligible for appointment.

(C) For the purpose of certification in § [34.111](#), seasonal eligibility lists shall be regarded as competitive.

§ 34.101 REMOVAL OF NAMES FROM ELIGIBILITY LISTS.

The Director of Human Resources, or designee, may remove a name from an eligibility list or refuse to certify a name on an eligibility list, if the eligible person is in violation of Louisville Metro Personnel Policy 9.2, “Disqualification of Applicants, Eligibles and Appointees.”

FILLING VACANCIES

§ 34.110 REQUISITION OF ELIGIBILITY LISTS.

In order to fill a vacancy for a covered position, the department director makes a request to the Director Human Resources, or designee, to certify a list of eligibles by completion and submission of a requisition form prepared for such use by the Director of Human Resources, or designee, or designee,. The department director shall indicate on this form the desired type of eligibility list and method of appointment. Requisitions for classifications which have former employees on a Preferred Reemployment Eligibility List shall request certification of the Preferred Reemployment Eligibility List. If there is no Preferred Reemployment Eligibility List, preference shall be given for the use of promotion to fill vacancies.

§ 34.111 CERTIFICATION.

(A) *Certification.* After receipt of the requisition form and upon completion of final earned ratings for all required numerically-rated examinations, the Director of Human Resources, or designee, or designee, shall certify to the department director the list of eligibles prepared for the classification to which the position to be filled is assigned.

(B) *Preferred Reemployment.*

(1) If the vacancy is to be filled through preferred reemployment, the Director of Human Resources, or designee, shall certify to the department director all of the names on the appropriate eligibility list.

(2) A certification of a list of eligibles to fill any number of vacancies in a classification at the same time shall be considered a single certification for each eligible regardless of the number of vacancies to be filled.

(C) *Reemployment.*

(1) If the vacancy is to be filled through reemployment, the Director Human Resources, or designee, or designee, shall certify to the department director all of the names on the appropriate eligibility list.

(2) A certification of a list of eligibles to fill any number of vacancies in a classification at the same time shall be considered a single certification for each eligible regardless of the number of vacancies to be filled.

(D) *Competitive.* If the vacancy is to be filled through open competitive examination, the Director of Human Resources, or designee, shall certify to the department director all of the names on the appropriate eligibility list. If the department director requests that the vacancy be filled through open competitive examination and there is a preferred reemployment eligibility list for that classification, the Director Human Resources, or designee, shall certify the preferred reemployment eligibility list only. If the department director requests that the vacancy be filled through open competitive examination and there is a reemployment eligibility list for that classification, the Director Human Resources, or designee, shall certify both the open

competitive eligibility list and the reemployment eligibility list. A certification of a list of eligibles to fill any number of vacancies in a classification at the same time shall be considered a single certification for each eligible regardless of the number of vacancies to be filled.

(E) *Promotion.*

(1) If the vacancy is to be filled through promotion, the Director Human Resources, or designee, shall certify to the department director from the appropriate eligibility list, all the names of eligibles in rank order beginning with the top name on the list.

(2) A certification of eligibles to fill any number of vacancies in classification at the time shall be considered a single certification for each eligible regardless of the number of vacancies to be filled.

§ 34.112 INTERVIEWS.

The department director shall instruct eligibles when to report for any interview for the open position. The name of an eligible who fails to report for the interview shall be reported to the Director Human Resources, or designee, who shall determine whether there is adequate reason to remove the name from the eligibility list.

§ 34.113 WAIVER OF CERTIFICATION PROHIBITED.

Eligibles shall not be permitted to waive certification or to determine when their names will be certified.

APPOINTMENTS

§ 34.125 APPOINTING AUTHORITY.

(A) All appointments, promotions, demotions, layoffs and dismissals of employees are recommended by the Department Director.

(B) With the exception of persons appointed on an emergency basis, newly hired and promoted employees may not begin work until the Director of Human Resources, or designee notifies the appropriate ~~Department~~ Director.

§ 34.126 SELECTION OF ELIGIBLES; RECEIPT OF APPOINTMENT.

(A) The department director shall notify the Director of Human Resources, or designee on a form prepared for such use, which eligible has been selected to be recommended for appointment. The names of eligibles not selected shall be returned to the same positions on the eligibility list as were held prior to certification.

(B) The department director may only request appointment of persons whose names appear on the certified list of eligibles unless otherwise provided for in these rules.

(C) No persons may receive more than one appointment within the Merit System at any one time.

§ 34.127 EMERGENCY APPOINTMENT.

(A) In the event that there are urgent reasons for filling a vacancy and the Director of Human Resources, or designee, is unable to certify a list of eligibles within a reasonable amount of time, the department director may request the Director of Human Resources, or designee, to authorize the placement of a person in the vacancy on a temporary basis without benefit of

examination. The department director shall inform the Director of Human Resources, or designee, of the person the department director wishes appointed on a temporary basis, listing that person's qualifications for appointment. The Director of Human Resources, or designee, shall determine if the person so requested is qualified, and shall certify this in writing to Mayor, prior to authorizing the emergency appointment.

(B) Emergency appointments shall not continue, under any circumstance, for longer than three months.

(C) Emergency appointments authorized by the Director of Human Resources, or designee must be subsequently approved by the Board.

(D) Service by an employee in emergency appointments who receive subsequent appointment to regular positions shall not have the time served in the emergency capacity counted toward completion of their probation period provided such service is continuous, in the same classification and in the same department.

(E) No person may receive more than two emergency appointments within any one period of twelve consecutive months

§ 34.128 TEMPORARY APPOINTMENT.

(A) Persons may be appointed for specific and limited periods of time to provide Metro Government with work or services of a temporary or transitory nature.

(B) Temporary appointment shall not continue for longer than three months. Persons may receive subsequent temporary appointments.

(C) Temporary employees receive no fringe benefits.

(D) Temporary employees shall meet the minimum requirements for the classification to which they have been appointed.

(E) Temporary employees are not required to be on an eligibility list for the classification to which they have been appointed.

§ 34.129 SEASONAL APPOINTMENT.

(A) The department director may create and fill positions which require work during only certain times of each year on a regularly reoccurring basis.

(B) The Director of Human Resources, or designee, shall be responsible for preparing eligibility lists for seasonal appointments without benefit of examination, when appropriate.

(C) At the beginning of each new season, the department director may reemploy those employees who worked in similar seasonal positions during the last previous season requiring such work, unless:

(1) The employee has indicated in writing to the Director of Human Resources, or designee, that a seasonal appointment is no longer desired;

(2) The department director has dismissed the employee for cause; or

(3) The work is no longer required.

§ 34.130 ACTING APPOINTMENT.

The department director shall appoint employees to positions of a higher classification on an acting basis without benefit of examination for a period not to exceed three months.

§ 34.131 REEMPLOYMENT APPOINTMENT.

The department director may request the appointment of former regular covered employees who have resigned in good standing and who have been placed on a Reemployment Eligibility List to positions assigned to the same classification which they last held prior to resignation.

§ 34.132 PREFERRED REEMPLOYMENT APPOINTMENT.

The department director may request the appointment of former regular covered employees who have been listed on a Preferred Reemployment Eligibility List, to positions assigned to the same classification which they last held prior to layoff.

ADMINISTRATIVE POLICIES AND PROCEDURES

§ 34.145 PROBATION.

(A) The probation period shall be used as an opportunity to observe and appraise the newly appointed employee's work, to aid the employee in adjusting to the new position, and to take appropriate action to remove from the position any employee whose work performance fails to meet required standards.

(B) The first six months following the appointment shall constitute a probation. The probation period may be extended for any period of time up to an additional three months, upon request by the department director and approval by the Board. The department director's request for extension of probation period shall be in writing, specifying the reasons for such action and

recommended length of extension. The Board must approve such extension prior to the end of the probation period. The department director shall notify the affected employee in writing of the intention to extend the probation period and place a copy in the employee's file.

(C) The provisions of the Louisville Metro Personnel Policy Manual relating to probation shall apply.

§ 34.146 DISCIPLINE.

(A) *Principles of behavior.* Covered employees shall adhere to the responsibility as a public employee, harassment and principles of behavior provisions contained in the Louisville Metro Personnel Policy Manual.

(B) *General provisions.* The provisions of the Louisville Metro Personnel Policy Manual relating to reasons for discipline, authority to discipline, procedures for affecting discipline, types of discipline and suspensions pending investigations shall apply.

§ 34.147 APPEALS AND HEARINGS.

(A) The provisions of this ordinance govern disciplinary and nondisciplinary appeals, and grievances and are not subject to collective bargaining.

(B) Regular covered employees who are suspended in excess of ten days, demoted, or dismissed may appeal to the Board for a review of the action. Such employees do not have the option of appealing through the grievance mechanism in the Louisville Metro Personnel Policy Manual.

(C) Appeals requesting Board review must be made in writing, addressed to the Board with a copy to the department director. The written appeal must be made within ten days of the effective date of the disciplinary action and must include a statement of the grounds for appeal.

(D) An employee who submits an appeal for Board review of a disciplinary action shall be provided a copy of the hearing procedures of the Board which shall govern all hearings conducted by the Board.

(E) An employee granted a Board hearing shall have the right to be represented by legal counsel at the hearing and during the hearing process.

(F) Counselling letters, warnings, reprimands and suspensions of ten days or less are not appealable to the Board. An employee who has received a counselling letter, warning, reprimand or suspension of ten days or less may appeal through the grievance mechanism established in the Louisville Metro Personnel Policy Manual.

(G) Nondisciplinary grievances (except layoffs and political discrimination) may be appealed only through the grievance mechanism established in the Louisville Metro Personnel Policy Manual.

(H) Layoffs may be appealed as provided in § [34.149](#)(F).

(I) Grievances alleging political discrimination may be appealed as provided in § [34.004](#).

§ 34.148 LEAVES OF ABSENCE.

The provisions of the Louisville Metro Personnel Policy Manual relating to leaves of absence shall apply.

§ 34.149 LAYOFF.

(A) All regular covered employees who are laid off shall have their name placed on a preferred reemployment eligibility list.

(B) The department director shall notify the Board and the affected employees in writing at least ten working days prior to any intended layoff.

(C) No regular employee in a classification shall be laid off when there are temporary, part time or probationary employees in the department working in positions assigned to the same classification.

(D) Metro Government shall determine the classifications to be reduced or eliminated when due to lack of work or reorganization, it becomes necessary to layoff employees. The order of layoff shall be based on classification to be reduced or eliminated.

(E) Layoff shall be in accordance with Louisville Metro Personnel Policy Section 18.2, “Layoffs.”

~~(H)~~ (F) Recalls shall be by classification and shall be in the reverse order of the reduction or layoff (i.e., the first to be recalled shall be the last laid off) provided such employees have demonstrated a capability to do the work available.

~~(H)~~ (G) Any regular employee may appeal a layoff to the Board within ten calendar days of the layoff. Such appeal must be in writing.

§ 34.150 RESIGNATION.

(A) The department director shall report to the Director Human Resources, or designee, the name of any employee who resigns from a covered position and whether or not the employee resigned in good standing.

(B) Persons who resign in good standing may, within one year of resignation, request that the Board place their names on the reemployment eligibility list.

§ 34.998 SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 34.999 PENALTY.

Any such person found to be in violation of any portion of § [34.005](#) of this ordinance, with the exception of subsection (A)(6), shall be summarily dismissed and shall not be employed under these rules for a period of one year thereafter; provided, however, that should the appointing authority fail or refuse to dismiss, the Board shall conduct a hearing which the accused person may attend with counsel; if the Board finds the accused guilty of violation of this rule the Board shall dismiss the violator with a consequent one year disqualification. Such action of the Board is final. Any such person who shall be found in violation of § [34.005](#)(A)(6) may be suspended but shall not be subject to the summary dismissal provisions of this rule. Any employee so suspended is entitled to a hearing as provided in these rules.

SECTION III: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____

LMCO34ReenactPerKRS67C115(3)ROCbknDraft1.doc
LMCO34Amend&ReenactAmendWithBEchangesROCbknDraft2.doc
LMCO 34 – Draft 3 - BE changes – 27 July 2007 – roc/wtw
LMCO 34 Merit Boards Cmte. amendment of 100107 Draft 4.doc

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